



OGC 69-0386

6 MAR 1969

OGC Subject:  
Legislation, S. 782

The Honorable Melvin R. Laird  
Secretary of Defense  
Washington, D. C. 20301

Dear Mel:

I am enclosing a copy of S. 782, "A Bill To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy." An identical bill in the last Congress, S. 1035, passed the Senate, but was not acted upon in the House, although hearings were held by the House Post Office and Civil Service Committee.

Whatever its basic merits, S. 782 gives me great concern because of the impact, which I believe will be apparent to you, on personnel security and security of information, particularly in intelligence components and other units handling highly sensitive material. As you know, I am responsible by law for the protection of intelligence sources and methods from unauthorized disclosure, and the integrity of personnel in the intelligence community is absolutely essential in carrying out this responsibility. The disastrous effect of failures in this field has been amply demonstrated by such cases as Sergeant Dunlap of the National Security Agency and Kim Philby of British Intelligence.

What S. 782 does in essence is to inhibit our ability to obtain full information about our employees and to impair the command and disciplinary system essential to good personnel administration. The first is explicit in the terms of the bill. The second grows out of three provisions:

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The first would give the employee right to counsel at the first questioning as to conduct.

The second is the creation of a Board on Employees' Rights to which employees or applicants can appeal directly and which would have disciplinary power over officers they held to be in violation of the act.

The third is a provision giving immediate access to the Federal courts without exhausting administrative remedies to any employee or applicant who felt his rights under the act had been violated.

In addition to the administrative problems obvious herein is the potential for exposure of sensitive information in the Board proceedings or in Federal court actions. Also, the opportunity for a deliberate campaign of harassment by applicants is apparent.

The Department of Defense considered S. 1035 last year and submitted a report of 7 May 1968 to the Subcommittee on Constitutional Rights, Committee on the Judiciary, of which Senator Sam J. Ervin, Jr., the author of the bill, is Chairman. This report commented on the above-mentioned provisions and recommended that authority be given to the Secretary of Defense, the Secretaries of the Military Departments, and their designees, for the same exceptions granted to the Central Intelligence Agency, National Security Agency, and Federal Bureau of Investigation. (Incidentally, these exemptions did not solve our problem, and I believe that nothing less than a complete exemption will do so.)

At the hearings of the Subcommittee on Manpower and Civil Service, House Post Office and Civil Service Committee, testimony was given on behalf of the Department of Defense by the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Assistant General Counsel for Manpower on Tuesday, 18 June 1968, at which time they again commented on the impact of the bill on national security.

While my immediate concern is, of course, for the personnel of the Agency for which I am responsible, the problem reaches not only to other intelligence components but obviously to the recipients of sensitive intelligence information, since there should not be two standards of security for people who handle the same material.

I hope you will interest yourself personally in this matter, and if there is any further information I can provide in connection with S. 782, please let me know.

Sincerely,

787 Richard Helms

Richard Helms  
Director

**Enclosure**

OGC:LRH:jeb  
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